WA 478/2003
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS, CHIEF JUSTICE(ACTING)
THE HON'BLE MR. JUSTICE B.P. KATAKEY

This appeal is directed against the judgment and order dated 28.8.03 passed by the learned Single Judge in W.P.' No. 2492/99 dismissing the writ petition filed by the appellant challenging the order dated 26.12.98 passed by the appellate authority imposing the penalty of reduction of 5 stages in the time scale of pay with cumulative effect by modifying the order of penalty imposed by the disciplinary authority on 22.6.98 whereby and whereunder the disciplinary authority has imposed the penalty of reduction to Ist stage of time scale of Junior Management Grade Scale-I.

We have heard Mr. D.P. Chaliha, learned senior counsel for the appellant and Mr. A.C. Sarma, learned counsel for the respondents.

Mr. Chaliha, learned senior counsel for the appellant referring to the finding recorded by the disciplinary authority vide order dated 22.6.98 as well as passed by the appellate authority in the order dated 26.12.98 has submitted that both the authorities having found that there was no financial loss to the Bank because of the lapses on the part of the appellant, the penalty imposed by the authority i.e. reduction of pay by 5 stages in the time scale of pay with cumulative effect, is shockingly disproportionate to the gravity of misconduct proved against the appellant and therefore, the authority may be directed to impose the penalty commensurate to the mis-conduct committed by the appellant.

It appears from the charges levelled against the appellant vide Memorandum dated 22.7.95 that the same are grave in nature. Three charges were framed against the appellant which are quoted below:

Charge No.1:
Sri B.N. Deka, the then Officer-in-charge of CMD Department had collected unauthorisedly money under the CMDS scheme from customers for which he had also issued receipts unauthorisedly.

Charge No.2:
Sri B.N. Deka fraudulently used the Central Mini Deposit Pass Book for collecting money under the above scheme for running a parallel Mini Deposit Scheme unauthorisedly.

Charge No.3:
Sri B.N. Deka has created a bogus CMDS a/c No. 1998 in the name of Shyam Sherco and unauthorisedly transferred the collected amount to HSS a/c of the CMD Collector Mrs. D. Talukdar and fraudulently withdrawn the money using an withdrawal signed by Mrs. Talukdar. Sri B.N. Deka has thus engaged in fraudulent activities for his own pecuniary benefit which has jeopardized the interest of the Bank.

The enquiring authority though initially in his report dated 24.9.96 recorded the finding that the charges levelled against the appellant have not been proved, the disciplinary authority having not agreed with the findings of the Inquiry officer issued notice dated 13.1.97 asking the appellant to show cause as to why the disciplinary authority should be disagree with the finding recorded by the enquiry officer and also as to why it should not be held that the charges have been proved. The appellant on receipt of the said notice submitted his reply on 31.1.97 and thereafter, the disciplinary authority after elaborate discussion of evidences on record, disagreed with the finding recorded by the enquiry officer by holding that the charges leveled against the appellant have been proved and accordingly imposed a penalty of reduction to the Ist stage in the time scale of pay of Junior Management Grade Scale-I vide order dated 22.6.98, which however, was reduced by the appellate authority by the impugned order dated 26.12.98, which is impugned in the writ petition by the appellant.

The only ground which has been urged in appeal is the disproportionality of the penalty imposed by the authority.

From the nature of charges as quoted above which found to be have been proved against the appellant, it appears that the charges are grave in nature. The appellate authority, in fact by the order dated 26.12.98 has dealt with the a

ppellant very leniently and reduced the penalty imposed by the disciplinary auth ority. The scope of judicial review of penalty imposed by an authority in a dis ciplinary proceeding is very limited. High Court, no doubt has the power to int erfere with the penalty imposed in a disciplinary proceeding provided the penalt y imposed shocks the judicial conscience.

In the instant case, keeping in view the nature of charges proved agains t the appellant, in our considered view, the penalty imposed by the appellate au thority vide dated 26.12.98 cannot be said to be disproportionate to the charges proved.

In view of the above, we do not find any merit in the appeal and hence t he same stands dismissed.